



Kentucky Nursing Laws: What You Don't Know...Can Hurt You

A Self-Study Educational Program

Prepared for

The Kentucky Board of Nursing

by

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I. Introduction

This course is a cooperative effort between the Kentucky Board of Nursing and the National Council of State Boards of Nursing, Inc. The course content is based on Kentucky Revised Statutes Chapter 314 and Kentucky Administrative Regulations Title 201, Chapter 20. Information is provided as a general overview of the laws and regulations governing the practice of nursing in Kentucky and is not intended to represent the law and regulations in their entirety.

II. Learning Outcomes

Upon completion of this self-study program, you will identify personal and professional accountability and responsibilities specified in the Kentucky Nursing Laws. You should be able to:

- Acknowledge the role of licensure in the practice of nursing in Kentucky.
- Discuss the differences between the board of nursing and professional nursing associations/organizations.
- Recognize the scope of practice for registered nurses, advanced practice nurses, and licensed practical nurses.
- Identify the role and responsibilities of licensed nurses working with unlicensed assistive personnel.
- Discuss noncompliance with Kentucky Nursing Laws and potential disciplinary action.

III. General History

Opponents of regulation argue that the regulatory system was designed for simpler times, when the telephone was a startling new invention, and cross state travel required days, not minutes or hours. Some people believe that health care regulation is out-of-step with current needs and expectations. Other critics contend that professionals have an incentive to limit entry by setting entry educational requirements that are too high. The same professionals then demand grandfather clauses that specify that those already practicing prior to the enactment of the regulation, regardless of their education, maintain the same authority to practice as those who are licensed after the implementation of the more stringent requirements. Critics see anti-competitive practices limiting consumer choice and access to services.

Why are boards of nursing in the business of licensing nurses? Why bother? Does it still matter in this modern world? What difference would it make if the regulation of nursing practice just went away?

Traditionally, medicine and law were the first regulated professions. The European foundations of licensure date back to the 13th Century in Sicily and the Holy Roman Empire. This early regulatory activity was an outgrowth of the revival of learning and contact with the Arab world.

King Henry VIII created the College of Physicians and Surgeons in 1511. The College, with the Archbishop of Canterbury, was given the power to license physicians and was the first to introduce practitioners as participants in the licensing process.

The first attempts to regulate occupations and professions in America were medical practice acts in colonial Virginia (1639), Massachusetts (1649), and New York (1665). The

Massachusetts law required those persons practicing the healing arts to have the advice and consent of skillful and experienced practitioners.

These early laws were the forerunners of licensure and the beginning of peer-determined competence in this country. By 1800, thirteen of sixteen states had given the authority to examine and license physicians to the state medical societies. In the second quarter of the 19th century, there was deregulation of the legal and medical professions, and at the time of the Civil War, no effective state licensing system was in place. This period of deregulation has been viewed as both positive, resulting in more medical schools thus increasing the number of physicians, and negative, a time of rampant quackery and deterioration in the quality of medical care.

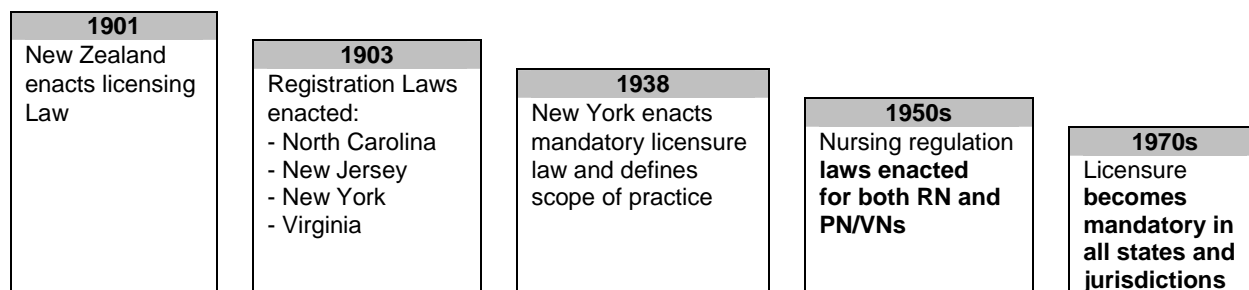
By the end of the 19th century, states were again beginning to pass medical practice acts which were implemented by state regulatory agencies. One of the residual effects of physicians becoming the first health care group licensed by the state is that there is, currently the continuation of a legislative scheme which grants physicians an exclusive and all-encompassing scope of practice for all things medical or health-related.

The first efforts toward the regulation of nursing began in England. Although the issue of nursing regulation was raised in the last 19th century, enactment of laws to govern nursing in England was delayed in part due to the opposition of Florence Nightingale to regulation. In 1901, New Zealand became the first country to enact a nurse licensing law. North Carolina was the first state to enact a registration law in 1903. New Jersey, New York, and Virginia also passed registration laws in that same year.

The early registration laws were viewed as a way to provide legal recognition of nursing. Through title protection (only those duly registered with the state could use the title “registered nurse”), a mechanism for examination and the establishment of educational standards, the laws were intended to protect the public. The laws were permissive, did not define nursing practice, and were diverse and inconsistent from state to state.

In 1938, New York became the first state to adopt a mandatory licensure law and to define a scope of nursing practice. The demands for nurses both to serve in the military and on the home front during World War II caused an acute nursing shortage. This resulted in a slowing of other states’ movement toward mandatory licensure. In the 1950s, nursing regulation laws began to address both Registered Nurses and Licensed Practical/Vocational Nurses. By the 1970s, licensure for RNs and LPNs/VNs became mandatory in all United States jurisdictions. Currently, advanced practice nursing is also regulated by some method in 49 of the 50 states.

Nursing Licensure & Regulation Timeline



Regulation implies the intervention of the government to accomplish an end beneficial to its citizens. The Tenth Amendment reserves to the states all powers not delegated to the United States by the U.S. Constitution. The power to regulate occupations is based upon the police power of the state to enact reasonable laws necessary to protect its citizens. States may exercise all powers inherent to government except those explicitly reserved to the federal government (e.g., interstate commerce) or pre-empted by federal law.

Laws governing individual health care providers are enacted through state legislative action. Regulatory authority is derived from legislative action. While a state constitution forms the framework for state governments, legislatures enact laws which grant specific authority to regulatory agencies, e.g., a state legislature enacts a nursing practice act to regulate nursing and delegates authority to the state boards of nursing to enforce the nursing practice act. State legislatures delegate many enforcement activities to state administrative agencies. The delegation of regulatory authority allows the legislature to use the expertise of the agencies in the implementation of statutes.

IV. Overview of History of Nursing Licensure and Regulation in Kentucky

In the early 1900s, the Kentucky Nurses Association (KNA) actively lobbied and supported the licensure of registered nurses. Lobbying efforts centered on “How could the public know if a nurse was educationally prepared and minimally competent to care for the sick and infirmed?” “What was the public to do if an individual was not what she/he purported to be?” The efforts of KNA and practicing nurses resulted in the General Assembly of the Commonwealth of Kentucky enacting legislation in 1914 that established the regulation of registered nurses and nursing practice. Thus, in 1914, the Kentucky Board of Nursing (KBN) was established, board members were appointed, and an executive director was hired to implement the day-to-day activities needed to support the work of the Board. The roots of this regulatory agency are firmly grounded in establishing the competency of individuals holding themselves out to be nurses, in order to protect the public.

The Kentucky Nursing Laws give KBN the authority to promulgate administrative regulations to operationally implement the law. Legally the KBN can only promulgate administrative regulations related to responsibilities and functions authorized by the law. Think of the Kentucky Nursing Laws as the framework for a house and the administrative regulations as the fittings and furnishing for that space. A house without fittings and furnishings is not very habitable. Thus, while the law provides the framework, the administrative regulations spell out specific requirements so that a nurse knows how to comply with the law. The promulgated regulations have the force and effect of law. Licensed nurses must comply with both the statutes and administrative regulations.

The Kentucky Nursing Laws can be found in the Kentucky Revised Statutes (KRS) Chapter 314. The administrative regulations related to the nursing laws can be found in Kentucky Administrative Regulations Title 201, Chapter 20. (<http://www.lrc.state.ky.us/kar/title201.htm>). Over the years multiple changes have been made to the Kentucky Nursing Laws by the General Assembly. The licensure of practical nurses was enacted in 1966; the registration of advanced practice nurses was enacted in 1982; and the regulation of dialysis technicians was enacted in 2001. Detailed information on how to obtain a copy of the Kentucky Nursing Laws and Kentucky Administrative Regulations may be found on the Kentucky Board of Nursing web site <http://kbn.ky.gov>.

V. Responsibilities and Functions of the Kentucky Board of Nursing

The **MISSION** of the Kentucky Board of Nursing (KBN) is to “Protect public health and welfare by development and enforcement of state law governing the safe practice of nursing.” The KBN is a state government agency that has 16 members appointed by the Governor to 4-year terms. There are 11 Registered Nurses (includes one ARNP member), 3 Licensed Practical Nurses, and 2 Citizen-at-Large members. All meetings of the Board and its committees are open to the public. The Board maintains standing committees and councils to study, advise and recommend policies related to Practice, Education, Consumer Protection, Advanced Nursing Practice, and Dialysis Technicians.

The **Kentucky Board of Nursing functions and responsibilities** associated with its mission of public protection include:

1. Defining the legal practice of nursing in the Commonwealth.
2. Setting standards for applicant licensure, registration or certification.
3. Issuing and renewing registered nurse (RN) and licensed practical nurse (LPN) licenses.
4. Issuing and renewing Advanced Registered Nurse Practitioner (ARNP) registrations.
5. Issuing and renewing Sexual Assault Nurse Examiner (SANE) credentials.
6. Issuing and renewing Dialysis Technician credentials
7. Investigating alleged violations of the Kentucky Nursing Laws.
8. Monitoring practice competency and taking disciplinary action against licensees/applicants who fail to meet regulatory standards.
9. Providing an alternative to disciplinary action for chemically dependent nurses through the Kentucky Alternative Recovery Effort (KARE) for Nurses.
10. Approving Prelicensure Nursing Education Programs.
11. Approving Nursing Continuing Education Providers.
12. Awarding Nursing Incentive Scholarship Fund (NISF) Scholarships and Workforce Development Grants.

VI. The Board of Nursing and Nursing Associations: Do You Know The Difference?

The Kentucky Board of Nursing (KBN) recognizes that some confusion exists in what nurses perceive to be the scope and function of the board of nursing as compared to that of professional associations. The following section is presented in an attempt to clarify the roles of these two different and very distinct entities. As we begin this dialogue, it is important to note that associations and regulatory boards do not exist in an adversarial relationship but rather have had a very long history of collaboration.

Primary functions:

The Kentucky General Assembly established the Board of Nursing in 1914 with the charge to fulfill the statutory mandates set forth by the Kentucky legislation. The mission of the Board of Nursing is to “protect public health and welfare by development and enforcement of state laws governing the safe practice of nursing”. Simply put, the Board of Nursing is a regulatory body or arm of the state government with the responsibility to protect health and welfare by developing and enforcing the laws governing the safe practice of nursing.

Though an arm of the state government, the Board is fiscally self-sustaining through the collection of fees for licensure services. The Board receives no money from state tax revenues

or other state funds. The agency carries out its functions by collecting fees for licensure and services from nurses and dialysis technicians.

Professional associations are private organizations that advance the nursing profession by addressing the practice, political and professional issues affecting nurses. They carry out this mission by establishing standards of nursing practice, promoting economic and general welfare of nurses in the workplace, projecting a positive and realistic view of nursing, and lobbying the legislature and regulatory agencies on behalf of health care issues impacting nurses and the public. Membership in these organizations is voluntary for nurses. The list of nursing professional organizations or associations is an extensive one.

A few organizations that have a statewide influence include the Kentucky Nurses Association, the Kentucky State Association of Licensed Practical Nurses, the Kentucky League for Nursing, Kentucky Association of Nurse Anesthetists, and the Kentucky Coalition of Nurse Practitioners and Midwives. The number of specialty nursing organizations across the state is too numerous to name here but each serves a distinct role with the select focus to enhance nursing practice within that clinical area.

Typically a board of directors or trustees elected by association members directs professional associations. The membership usually provides direction to these elected officers by participating in meetings. Association meetings may be closed to the general public, with elected leaders remaining private citizens.

Similarities and Differences:

Associations and the Board of Nursing share the goal of providing safe care to the citizens of the Commonwealth; however, the means used to accomplish this goal are significantly different. The Board exists *solely* to enforce the laws that regulate nursing practice. The Board has the authority to establish requirements, through regulations, that detail how an individual obtains a license or credential to practice nursing in Kentucky. The Board approves pre-licensure nursing education programs, oversees the licensure examination of nurses, and takes disciplinary action when a licensee or credential holder violates the law. These activities help to assure that only qualified individuals provide care to the public. To reiterate, the Board exists to enforce the laws of the state. The Board *does not* exist to advance the interests of the nursing profession. The Board has as it's primary focus the protection of those individuals who are consumers of nursing care.

On the other hand, associations bring practitioners together to develop professional standards and practices. The role of the professional association includes developing and disseminating foundation documents, lobbying for legislation and regulations that protect and serve users of nursing services, and advocating for patients and issues which affect a nurse's ability to deliver safe care. Professional associations often find themselves balancing between responsibilities for the welfare of the public and serving as an advocate for the membership.

VII. Licensure and Registration in Kentucky

The purpose of nursing regulation in Kentucky is public protection. To this end, Kentucky Nursing Laws require all licensees to practice nursing with reasonable skill and safety. KRS 314.021(2) holds all nurses responsible and accountable for making decisions and taking actions that are based upon the individual's educational preparation and experience in nursing.

A nursing license is **mandatory** in Kentucky if an individual wishes to use the title Registered Nurse (RN) or Licensed Practical Nurse (LPN). A license is required even though an individual is not employed as a nurse if one holds herself/himself out to be an RN or LPN.

KRS 314.021(2) holds each licensee responsible and accountable for practice... “All individuals licensed under provisions of this chapter shall be responsible and accountable for making decisions that are based upon the individuals’ educational preparation and experience in nursing and shall practice nursing with reasonable skill and safety.”

KRS 314.101(1) allows certain activities to be performed without a license. They are:

- The furnishing of nursing assistance in an emergency
- The practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing
- The practice of any legally qualified nurse of another state who is employed by the United States government; or
- The practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state

Initial licensure

In any United States jurisdiction (including Kentucky) is obtained by making application to and meeting the requirements of a Board of Nursing, and passing the National Council Licensure Examination (NCLEX-RN or NCLEX-PN). In Kentucky to be eligible for **licensure by examination**, the following minimum criteria must be met:

- Completion of a board approved prelicensure program of nursing
- Ability to read, write, and speak English
- Submission of a completed application and the required fee
- Completed Criminal Background Check

Criminal Background Checks

Kentucky Law requires applicants for licensure by examination to submit a criminal background check **with their** application for licensure. Failure to report any criminal convictions **EVER** received is deemed to be falsification of the application and subjects the applicant to disciplinary action by KBN.

If the applicant has ever had a conviction, all of these must be listed on the application. In addition to listing the convictions, individuals must a letter of explanation. The letter of explanation is a personally written summary of the events that led to the conviction(s). This letter gives the individual an opportunity to tell what happened, and to explain the circumstances that led to the conviction. A certified copy of the court record of each misdemeanor or felony conviction in any jurisdiction. The only ***EXCEPTIONS*** for copy of court documents is for traffic related misdemeanors (other than DUI's) ***OR*** misdemeanors older than 5 years. If an applicant has had a criminal conviction, the application should be filed with KBN at least 3 months prior to the anticipated date of employment in Kentucky or 2 months prior to graduation.

Clinical Internship

Any applicant for licensure by examination as of January 1, 2006 will be required to complete a clinical internship prior to taking the NCLEX examination. Once application is complete and

program requirements met, individuals will be issued a provisional license valid for six (6) months. From the statute (KRS 314.011), clinical internship is defined as “a supervised nursing practice experience, which involves any component of direct patient care”. The clinical internship shall last a minimum of 120 hours and shall be completed within six (6) months of the issuance of the provisional license. The setting in which this clinical internship can be conducted is not specifically defined other than the experience must involve direct patient care with a licensed nurse available to oversee.

What constitutes “direct patient care” can be defined as the obvious “hands on” care but would also include additional activities such as obtaining report, charting, communicating with physicians, etc. The intent of the law is to ensure that the newly graduated nurse will have a period of time where he/she can practice under the supervision of another nurse. During the time that the new nurse is practicing under the provisional license, the title RNA (Registered Nurse Applicant) or LPNA (Licensed Practical Nurse Applicant) will be used to differentiate new graduates from licensed practitioners.

Licensure by Endorsement

Once a given Board of Nursing initially licenses a nurse, the nurse may also obtain a license in another state by applying for licensure by endorsement in a new jurisdiction. The new jurisdiction will have requirements that must be met; however, the licensure examination is generally not repeated. If a nurse having a current, active license in another state wishes to practice in Kentucky, the nurse must apply for licensure by endorsement. The following minimum criteria must be met:

- Current, active, unencumbered license in another jurisdiction
- Initial licensure requirements that included completion of a board approved prelicensure program of nursing and successful completion of the NCLEX examination or equivalent
- Competency validation if licensed for five years or more, via verification of employment as a nurse or completion of a refresher course or CE
- Submission of a completed application, FBI check, and the required fee
- Documentation of completion of attendance at a HIV/AIDS course.

An applicant for licensure by endorsement may be eligible for a **temporary work permit (TWP)** that is valid for six months from the date of issue. This TWP allows the RN or LPN to practice the full scope of nursing pending issuance of the Kentucky license. Failure to meet all licensure requirements prior to the expiration of the TWP requires the applicant to submit another application for licensure by endorsement, and the individual is no longer eligible for a TWP.

An applicant for licensure by endorsement, who has not practiced as a nurse for at least 120 hours, will be required to meet the clinical internship provision prior to the issuance of the license.

The Board requires a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the Federal Bureau of Investigation (KRS 314.103). All criminal convictions must be reported to the Board at the time of application. Applicants for endorsement must follow the same process as described for the applicants for licensure by examination.

Licensure Status

A nurse in Kentucky may choose active or retired licensure status. **Retired status** allows the individual to use the title Registered Nurse (RN) or Licensed Practical Nurse (LPN). **Active**

licensure is mandatory for employment as a nurse in Kentucky. To change one's licensure status, a **change of status** application must be submitted to the Board.

Licensure Renewal

After a nurse is issued a license to practice in a given jurisdiction, that license must be maintained through a renewal process. In Kentucky, nurses renew their licenses prior to October 31 every year. Renewal applications are mailed in July to the address on file for those currently licensed. (KRS 314.107 requires licensees to maintain a current mailing address with KBN.) Effective with the 2003 LPN license renewal, the renewal process may be accomplished on-line at the KBN web site <http://kbn.ky.gov>.

Reinstatement of an Expired License

When a nurse fails to renew a license by its current expiration date, the license must be reinstated to enable the nurse to continue to practice in the Commonwealth. Practicing without a current, active license will subject the individual to the disciplinary action process. Requirements for reinstating an expired license include the following:

- Competency Validation via employment as a licensed nurse in another state, or earning the required continuing education, or completion of a refresher course.
- Individuals applying for reinstatement of a lapsed license to active state, the applicant shall complete fourteen (14) contact hours of continuing education for each year preceding the date of application for reinstatement. This continuing education must have been earned within the previous five (5) years.
- Submission of a completed reinstatement application and payment of the required fee.
- Prior to the granting of a full license, the nurse must provide evidence of completion of an HIV/AIDS Continuing Education Offering.

ARNP Registration

Registration is the process for recognizing **Advanced Registered Nurse Practitioners (ARNP)**. To be eligible for registration as an ARNP in Kentucky, one must have a current, active license as a Kentucky RN, and be certified by a national organization recognized by the Board. An ARNP's scope of practice is determined by the standards of practice of the national nursing organization for the specialty area of practice.

Lost or Stolen Credential

If an individual loses or has a license or other credential stolen, the person should notify the Board and request a re-issuance application for the replacement of the credential. There is a fee required to issue the duplicate credential.

Fee Schedule

The Board is authorized by law to set fees for services including licensure, registration, and certification. Current fee schedules are included on all applications, as well as on the KBN web site <http://kbn.ky.gov>.

Bad Check

If a check issued in payment for a biennial license, registration, or credentialing or other service fee is dishonored by the bank, the licensee must reimburse the Board within thirty days of written notification from the Board. If the licensee fails to reimburse the Board, any credential issued is subject to immediate temporary suspension (KRS 314.075).

To Obtain Applications or Other Forms – All applications, forms, detailed instructions, and the requirements for licensure, registration, and certification are on the KBN web site <http://kbn.ky.gov>.

VIII. Licensee Scope of Practice

The Kentucky Nursing Laws define the scope of practice for both the RN and LPN. KRS 314.011 (6) defines **Registered Nursing Practice** as follows: “the performance of acts requiring substantial specialized knowledge, judgment, and nursing skills based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

- (a) The care, counsel, and health teaching of the ill, injured, or infirmed;
- (b) The maintenance of health or prevention of illness in others;
- (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with the American Nurses’ Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include, but are not limited to:
 - 1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 - 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 - 3. Intervening when emergency care is required as a result of drug therapy;
 - 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 - 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 - 6. Instructing an individual regarding medications;
- (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
- (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with the American Nurses’ Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses.”

Registered nurses may dispense or distribute noncontrolled legend drug samples from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department (KRS 314.011 [17]).

Registered nurses employed by ambulance services, hospitals, or nursing facilities have the authority to determine if a client’s death has occurred [KRS 314.181 (3), (4)]. Registered nurses employed by Hospice programs may determine and make the pronouncement of death for a hospice patient, either in the home or in an inpatient unit. The Hospice RN may also sign the provisional report of death prior to releasing the body to the funeral home. [KRS 314.046]

Licensed Practical Nursing Practice is defined in KRS 314.011 (10) as “the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

- (a) The observing and caring for the ill, injured, or infirmed under the direction of a registered nurse, a licensed physician or dentist;
- (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
- (c) The administration of medications or treatments as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, which is consistent with the National Federation of Licensed Practical Nurses or with Standard of Practice established by nationally accepted organizations of licensed practical nurses;
- (d) Teaching, supervising, and delegating except as limited by the board; and
- (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Licensed Practical Nurses or with Standard of Practice established by nationally accepted organizations of licensed practical nurses.”

Licensed Practical Nurses may engage in the practice of intravenous therapy as delineated in 201 KAR20:490 (LPN Intravenous Therapy Scope of Practice) if educationally prepared and clinically competent to do so. A copy of this administrative regulation is available at the KBN web site <http://kbn.ky.gov>.

ARNP SCOPE OF PRACTICE

Registration as an **Advanced Registered Nurse Practitioner (ARNP)** is achieved following additional education and clinical experience in a post-basic program of study. Certification by an organization accredited by the American Board of Nursing Specialties or the National Commission for Certifying Agencies is required.

An ARNP may practice as designated by the Board as a nurse anesthetist, clinical nurse specialist, nurse midwife, or nurse practitioner, and as determined by the educational program completed and the specialty organization certifying the individual. For example, if prepared and certified as a pediatric practitioner, the ARNP may not engage in adult nursing practice. The educational preparation and scope of practice of the certifying body determines legal practice parameters, not the employer of the ARNP.

Advanced practice includes but is not limited to prescribing treatments, nonscheduled drugs and devices, and ordering diagnostic tests. An ARNP who wishes to exercise prescriptive authority must have a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

An ARNP in Kentucky must maintain current active RN licensure as well as current ARNP registration. The ARNP registration renewal period is the same as the RN renewal period. There is a 5-hour pharmacology requirement for each ARNP registration period [KRS 314.011 (7), (8), KRS 314.042 (1-9), KRS 314.073 (8)].

Sexual Assault Nurse Examiner (SANE)

The SANE credentialed nurse conducts forensic examinations of victims of sexual offenses under a protocol issued by the State Medical Examiner. SANE credentialing is achieved

following successful completion of a KBN approved SANE education program. Only registered nurses are eligible to receive the SANE credential. A sexual assault nurse examiner must maintain current licensure as a registered nurse as well as the SANE credential. The SANE credential is renewed at the time of RN license renewal. There is a 5-hour continuing competence requirement in sexual assault/forensic nursing for each credential renewal period. Kentucky was the first jurisdiction to credential sexual assault nurse examiners. KRS 314.011 (14), 314.142 (1-2).

Dialysis Technician

Credentialing as a dialysis technician allows an unlicensed person to provide patient care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or physician [KRS 314.011 (19)]. The dialysis care provided is a “process by which dissolved substances are removed from a patient’s body by diffusion, osmosis, and convection from one fluid compartment to another across a semi permeable membrane.” [KRS 314.011 (18)] The dialysis technician credential must be renewed every two years.

VIII. Competency and Safe Nursing Practice

The purpose of nursing regulation in Kentucky is public protection. “It is the declared policy of the General Assembly of Kentucky that the practice of nursing should be regulated and controlled as provided herein and by regulations of the board in order to protect and safeguard the health and safety of the citizens of the Commonwealth of Kentucky.” [KRS 314.021 (1)] It is the stated belief of the Board that public protection can best be accomplished through ensuring the competency of licensees who provide nursing care, and by establishing standards that allow for the fullest development of nursing practice, commensurate with its potential social contributions.

The Kentucky Nursing Laws define **COMPETENCY** as “the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions and caring behaviors consistent with the nurse’s practice role within the context of public health, safety and welfare.” [KRS 314.011(15)] The KBN has endorsed the **Competence Standards** developed by the National Council of State Boards of Nursing, Inc.:

Standard I: Applies Knowledge and Skill at Level Required for a Given Practice Situation

Standard II: Makes Responsible and Accountable Practice Decisions

Standard III: Restricts or Accommodates Practice if Unable to Perform with Reasonable Skill and Safety

These are the guiding standards for evaluating the competency of a given licensee.

Competency Validation Options

Mandatory continuing education (CE) requirements were enacted in 1978. The underlying premise was that continuing education would support and improve individual competence. In 2000, after much study and debate, the Board changed the focus from mandatory CE to competency validation, and a number of options were offered for validating individual competence. With the implementation of annual licensure renewal, the requirements for

continuing competency validation have changed. Effective **2005 for LPN's and RN's renewing their license**, the following options are available to nurses to validate continued competency:

14 Hours of KBN Approved Continuing Education

--- OR ---

Current National Certification in effect during the licensure period that is related to nurse's practice role

--- OR ---

Serving as the principal investigator on a Nursing research project completion

--- OR ---

Co-investigator or project director

--- OR ---

Professional publication of nursing article

--- OR ---

Professional nursing education presentation

--- OR ---

7 hours of KBN Approved Continuing Education plus a Performance evaluation satisfactory for continued employment

Competency validation is attested to at the time of renewal of active licensure. Following the renewal period, a random audit of those nurses renewing an active license is conducted by the Board. Those nurses selected for audit must submit documentation of compliance with the chosen competency validation option. Failure to provide the required proof of competency validation activities subjects the licensee to the disciplinary action process. All licensees are exempt from CE/Competency requirements for the first renewal period of the Kentucky license issued by examination or endorsement. If an individual does not renew the original license, the exemption for the CE/Competency is lost and all CE requirements must be met before the license can be reinstated.

Advisory Opinion Statements and Declaratory Rulings

The Board has the statutory authority [KRS 314.131 (2)] to issue advisory opinion statements and make declaratory rulings dealing with nursing practice. While advisory opinion statements do not carry the force and effect of law, they are guidelines for safe and effective nursing care. When the Board identifies pertinent issues or receives a number of inquiries about a particular area of practice, an advisory opinion is developed. There are over thirty (30) such opinions currently in effect. A full listing of Advisory Opinion Statements is available on the KBN web site <http://kbn.ky.gov>. If a nurse has a practice question, the individual may write to the Board to request guidance.

The Board may issue, on petition of an interested party, a declaratory ruling relating the applicability of the law to any person, property, or state of facts of a statute, administrative regulation, decision, order, or other written statement of law or policy within the jurisdiction of the Board. Declaratory rulings have the force and effect of law. (KRS 314.105)

Delegation of Nursing Tasks to Unlicensed Persons

An integral part of competent practice is the **delegation of nursing tasks** by licensed nurses. KRS 314.011 (2) defines **delegation** as "Directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations..." Kentucky Administrative Regulation 201 KAR 20:400 details the responsibilities of the licensed nurse who delegates a nursing task to an unlicensed nursing assistant and to a paramedic in a hospital emergency department. In summary, the licensed nurse who delegates to an unlicensed person must determine the nursing care needs of the

client, retain responsibility for use of the nursing process, assess the competency of the unlicensed person to perform the delegated task, ascertain that no independent nursing judgment or intervention is required, evaluate and retain responsibility for competent performance, and document outcome(s).

Advisory Opinion Statement 87-15, Roles of Nurses in the Supervision and Delegation of Nursing Acts to Unlicensed Personnel further explains the Board's position on related delegation issues.

Telehealth is the use of interactive audio, video, or other electronic media to deliver health care. Any nurse who facilitates the use of telehealth is responsible and accountable for assuring that the following conditions are met:

Informed consent is obtained before telehealth services are provided
The confidentiality of client medical information is maintained. (KRS 314.155)

IX. Disciplinary Action and Alternative Interventions

The Kentucky Board of Nursing has the statutory authority to deny licensure, registration, or certification; and discipline and/or require mental health/chemical dependency or physical examinations for licensees and certificate holders. The Board may deny, revoke, suspend, reprimand, or place restrictions on any license or certificate issued. The Board may also impose fines for the violation of the nursing laws.

KRS 314.091(1) requires that licensees who negligently or willfully act in a manner inconsistent with the practice of nursing, or who are unfit or incompetent to practice nursing with reasonable skill or safety, be subject to the disciplinary action process. When practice deficits are identified that threaten client well being, the licensee must be reported to the Board (KRS 314.031) for practicing nursing without reasonable skill and safety.

KRS 314.091 gives the Board the "power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for..., or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

- (a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;
- (b) Has been convicted of a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;
- (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
- (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
- (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including, but not limited to, being unable to practice nursing with reasonable skill or safety;

- (f) Abuses use of controlled substances, prescription medications, or alcohol;
- (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
- (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
- (i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth; including action by another jurisdiction for failure to repay a student loan.
- (j) Has violated any of the provisions of this chapter;
- (k) Has violated any lawful order or directive previously entered by the board;
- (l) Has violated any administrative regulation promulgated by the board; or
- (m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.”

Mandatory Reporting

KRS 314.031(4) requires the reporting of any potential violations of the Kentucky Nursing Laws to the Kentucky Board of Nursing (KBN). “Any person” having knowledge of a violation is required to notify the KBN, and that includes reporting by colleagues, employers of nurses, and self-reporting. There are penalties for failing to report violations. Nurses who fail to report may be subjected to disciplinary action. Complaint forms are available on the KBN Website <http://kbn.ky.gov>.

There is a **mandatory reporting** requirement if anyone has knowledge of a Kentucky nurse who...

- Has been convicted of a misdemeanor/felony
- Is guilty of fraud or deceit in procuring or attempting to procure a nursing license
- Exhibits behaviors inconsistent with safe, competent nursing practice
- Willfully or repeatedly violated any provision of KRS Chapter 314
- Has had disciplinary action taken on license in another state
- Is practicing nursing without a license or valid temporary work permit
- Has made incorrect entries or failed to make essential entries in medical records
- Abuses controlled substances or has misused or misappropriated any drugs.

Reporting Convictions to the KBN by Licensee or Applicant for Licensure

KRS 314.109 requires a currently licensed nurse to notify the Board in writing of any misdemeanor* or felony* conviction, except for traffic-related misdemeanors (other than DUI) or misdemeanors older than five (5) years, within thirty (30) days of the conviction. Failure to notify the KBN may result in a temporary suspension of the nurse's license until the required information is submitted. The nurse is required to include a letter of explanation and a copy of the certified court record when reporting a conviction.

* The only exception is for traffic related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol.

201 KAR 20:370 requires that applicants for licensure by examination, endorsement, renewal, reinstatement, or change of status must submit a certified copy of the court record of each misdemeanor or felony conviction and a letter of explanation that addresses each conviction, except for traffic-related misdemeanors (other than DUI) or misdemeanors older than five (5) years.

Disciplinary Action Process

Once a complaint against a license is received, it is reviewed to determine if investigatory action is required. If so, relevant information is collected and the licensee is notified of the complaint and requested to come to the Board office for an investigative meeting. The licensee is entitled to due process and may bring legal counsel to this and all subsequent meetings.

Following the initial meeting, several options are available. The licensee may admit guilt to certain non-willful violations of the law and a **CONSENT DECREE** specifying conditions that must be met may be entered into with the Board. A consent decree is not disciplinary action.

If the licensee/applicant admits to a willful violation of the law, the licensee/applicant may be offered an **AGREED ORDER** that specifies the associated conditions and requirements that must be met in order to comply with the disciplinary action. The licensee/applicant may choose to reject an agreed order and request an **ADMINISTRATIVE HEARING** before a representative panel of KBN members. The panel, after hearing the facts of the case and the licensee's response, may choose to find in favor of the licensee or recommend disciplinary action. This **DECISION** may include revocation, suspension, voluntary surrender, probation, limitation, reprimand, denial of license, and/or denial of admission to NCLEX. A disciplinary decision entered by the Board is eligible for appeal to the Jefferson County Circuit Court. All official disciplinary action outcomes are published in the Board's publication, **KBN Connection**, and reported to other state boards of nursing.

Immediate Temporary Suspension

KRS Chapter 314 gives the KBN the ability to immediately suspend a nurse's license in those cases where a threat to the public exists and suspension is necessary in order to protect the public or to prevent the nurse from inflicting harm to self (KRS 314.089). The KBN may temporarily suspend a nurse's license for failing to submit to the Board an ordered mental health/chemical dependency evaluation (KRS 314.085). The Board of Nursing additionally has the authority to temporarily suspend a nurse's license for:

- Submitting to the KBN a bad check for renewal of the nursing license (KRS 314.075);
- Failing to pay court ordered child support (KRS 205.712); and
- Defaulting on a student loan with the Kentucky Higher Education Assistance Authority (KRS 164.772).

Temporary Suspensions are reported on the KBN website. When a nurse's license has been revoked, an administrative hearing before the Board may be required to determine if the license will be reinstated and, if so, on what terms. The individual is required to take and pass the licensure exam. Prior to scheduling a reinstatement hearing, all requirements and conditions of any agreed order or decision must be met, including payment of fines.

KARE for Nurses --- Alternative Recovery Program

The Kentucky Alternative Recovery Effort (KARE) for Nurses Program is a confidential non-disciplinary monitoring program for nurses who acknowledge alcohol and/or drug abuse or dependency. The purpose of the KARE for Nurses Program is to identify and assist nurses whose abilities to provide nursing care are compromised by chemical dependency (alcohol and/or drugs). The philosophical foundation of the KARE for Nurses Program is that chemical dependency is a disease that is treatable and that the recovery and return of a nurse to safe and competent nursing practice are in the best interest of the public and the profession. Participants must meet the eligibility criteria and voluntarily enter into an agreement with the KARE for Nurses Program that includes monitoring for a period of at least five (5) years. All KARE for Nurses Program participants are assured confidentiality while participating in the program as long as all program requirements are being met. Refer to the KBN website (<http://kbn.ky.gov>) for more detailed information.

X. Programs of Nursing

All prelicensure schools of nursing must have and maintain KBN approval. Periodic surveys by a representative of the Board are conducted to determine compliance with statutes and regulations. A written report of the survey is submitted to the Board. If in the opinion of the Board the requirements for an approved nursing education program or school of nursing are met it shall approve the school.

If the Board determines that any approved school of nursing is not maintaining the standards required by the statutes and the administrative regulations of the Board, written notice specifying deficiencies is given to the school. Approval of a school which fails to correct these conditions to the satisfaction of the Board within a reasonable time shall be discontinued following an administrative hearing. (KRS 314.111 & 201 KAR 250-360)

XI. Nursing Scholarships and Workforce Development

The Nursing Incentive Scholarship Fund (NISF) provides scholarships to Kentucky residents who will be attending approved prelicensure registered nurse or practical nurse programs, or graduate nursing programs. The scholarship requires that a recipient must work as a nurse in Kentucky for one year for each academic year funded. If a recipient does not complete the nursing program within the time frame specified by the program, or if a recipient does not complete the required employment, then the recipient will be required to repay any NISF monies awarded, and accrued interest.

An applicant for an NISF award must be a Kentucky resident, and have been admitted to a nursing program (whether located in Kentucky or not). Preference for awards is given to applicants with financial need, LPNs pursuing RN education, and RNs pursuing graduate nursing education. Scholarship recipients may be eligible to receive continued awards if successful academic progression is maintained throughout the nursing program. The annual application deadline is June 1. An NISF application is available on the KBN website <http://kbn.ky.gov>.

XII. Summary of Licensee Responsibilities

Current, Active Licensure – To hold oneself out for employment or practice as a Registered Nurse or Licensed Practical Nurse in Kentucky requires the maintenance of a current, active license.

Safe, Effective Care - All nurses share in the responsibility, within the context of their educational preparation and nursing experience, for assuring that nursing care is provided in a safe and effective manner.

Personal Responsibility and Accountability – Each individual nurse is personally responsible and accountable for complying with the Kentucky Nursing Laws and Administrative Regulations. Ignorance of the law is not a defensible excuse for non-compliance.

Competent Practice – Each individual is personally responsible and accountable for maintaining professional competency. Competency validation is evaluated by a random audit following each license renewal period.

Maintain Current Address - KRS 314.107 requires a licensee to maintain a current address with the Board and to immediately notify the Board in writing of a change of mailing address. The Board has the right to send any correspondence to the last address provided to the Board by the nurse. Failure to change your address is not an acceptable excuse if you do not respond to Board requests related to license renewal, competency validation, or disciplinary matters. To change your address, notify the Board in writing and include your name, new address, Social Security number, and Kentucky license number. Address changes may be mailed or completed on-line. Consult the KBN web site (<http://kbn.ky.gov>) for details.

Notify Board in Writing – Several other circumstances require written Board notification. These include:

- Any professional or business license that is issued by any agency of the Commonwealth or any other jurisdiction that is surrendered or terminated under threat of disciplinary action or is refused, suspended, or revoked, or if renewal of continuance is denied (KRS 314.108).
- Conviction of a misdemeanor or felony---notice must be within 30 days of conviction.
- A licensee name change through marriage or divorce---a copy of supportive legal documentation is required with the notification.

REFERENCES

Kentucky Revised Statutes Chapter 314

- KRS 314.011 – Definitions for KRS 314.011 to 314.161 and KRS 314.991.
- KRS 314.021 – Policy.
- KRS 314.031 – Unlawful acts relating to nursing.
- KRS 314.042 – Registration and designation as an advanced registered nurse practitioner – Use of “ARNP” – Renewal – Reinstatement – Collaborative practice agreements.
- KRS 314.046 – Registered nurse may sign the provisional report of death, when.
- KRS 314.073 – Continuing competency requirements.
- KRS 314.075 – Dishonor of check in payment of license fee – Emergency hearing.
- KRS 314.085 – Mental health, chemical dependency, or physical evaluation of licensee or applicant – Suspension or denial of application until person submits to evaluation.
- KRS 314.089 – Immediate temporary suspension of license against which disciplinary action or investigation is pending – Procedure.
- KRS 314.091 – Reprimand, denial, limitation, probation, revocation, or suspension of licenses or credentials – Hearings – Appeals.
- KRS 314.101 – Excepted activities and practices – Work permits – Withdrawal of temporary work permits.
- KRS 314.103 – Criminal background check of applicant.
- KRS 314.105 – Declaratory ruling by board on applicability of law to a particular case.
- KRS 314.107 – Service of notice or order to licensee at mailing address required to be on file with board.
- KRS 314.108 – Notification of board if any professional or business license is terminated or suspended.**
- KRS 314.109 – Notification of board of any criminal conviction.
- KRS 314.111 – Nursing school approval – Standards – Administrative hearing.
- KRS 314.131 – Board meetings – Officers – Quorum – Duties – Executive director – Compensation of members - Liability insurance – Expunging of disciplinary action records.
- KRS 314.142 – Sexual Assault Nurse Examiner Program – Advisory council.
- KRS 314.155 – Duty of treating nurse utilizing telehealth to ensure patient’s informed consent and maintain confidentiality – Board to promulgate administrative regulations – Definition of “telehealth.”

Kentucky Administrative Regulations Title 201, Chapter 20.

- 201 KAR 250 – Definitions for registered & practical nurse prelicensure programs of nursing.
- 201 KAR 260 – Organization and administration standards for prelicensure programs of nursing.
- 201 KAR 270 – Programs of nursing surveys.
- 201 KAR 280 – Standards for prelicensure registered nurse and practical nurse programs.
- 201 KAR 290 – Standards for prelicensure registered nurse and practical nurse extension programs.
- 201 KAR 300 – Standards for prelicensure experimental programs of nursing.
- 201 KAR 310 – Faculty for prelicensure registered nurse and practical nurse programs.
- 201 KAR 320 – Standards for curriculum of prelicensure registered nurse programs.
- 201 KAR 330 – Standards for curriculum of prelicensure practical nurse programs.
- 201 KAR 340 – Students in prelicensure registered nurse and practical nurse programs.
- 201 KAR 350 – Educational facilities and resources for prelicensure registered nurse and practical nurse programs.
- 201 KAR 360 – Evaluation of prelicensure registered nurse and practical nurse programs.
- 201 KAR 370 – Applications for licensure and registration.
- 201 KAR 400 – Delegation of nursing tasks.

Advisory Opinion Statements

Advisory Opinion Statement 99-03 IVT, "Role of Nurses in Intravenous Therapy Practice."
Advisory Opinion Statement 87-15, "Roles of Nurses in the Supervision and Delegation of Nursing Acts to Unlicensed Personnel"

Publications

Nursing Licensure: Disciplinary Process and Procedures
Applicants for Licensure with Criminal Convictions
Kentucky Alternative Recovery Effort (KARE) for Nurses
Assuring Safe Nursing Care in Kentucky

Other References

KRS Chapter 510 – Sexual Offenses.
KRS 530.064 – Unlawful transactions with minor in the first degree.
KRS 531.310 – Use of a minor in a sexual performance.
KRS 205.712 – Division of Child Support – Duties ...
KRS 164.772 – Default in repayment of obligation under financial assistance program – Professional licensing and certification – Notification.

Additional information or publications can be found on KBN's web site (<http://kbn.ky.gov>) or ordered from:

<p>Kentucky Board of Nursing 312 Whittington Parkway, Suite 300 Louisville KY 40222-5172 (502) 429-3300 (800) 305-2042 Fax: (502) 429-3311</p>
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